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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

LOUIS LEPERA an individual;

Plaintiff,

vs.

UNIVERSITY MEDICAL CENTER OF
SOUTHERN NEVADA;

Defendants.

Case No. 2:22-cv-01699-RFB-BNW

**~~{Proposed}~~ FIRST AMENDED
COMPLAINT**

COMPLAINT

COMES NOW Plaintiff Louis Lepera, ("Lepera" or "Plaintiff") by and through his attorney of record Jeffrey Gronich, Esq., and hereby complains of Defendant University Medical Center of Southern Nevada ("UMC" or "Defendant") as follows:

PARTIES

1. Plaintiff is and was at all times relevant a resident of Clark County, state of Nevada.
2. Plaintiff is informed and believes and thereon alleges that at all times relevant, Defendant UMC is and was at all time relevant a government run hospital owned and operated by the Clark County Commission, and conducting business in Clark County, state of Nevada.
3. At all times relevant, Defendant was Plaintiff's employer as such term is defined in 42 U.S.C. §2000e *et. seq.*, 42 U.S.C. §12111 *et seq.*, 29 U.S.C. §630 *et. seq.*, and NRS Chapter

1 613 *et. seq.*

2 4. At all times relevant, Plaintiff was an employee of Defendants as that term is
3 defined in 42 U.S.C. §2000e *et. seq.*, 42 U.S.C. §12111 *et seq.*, 29 U.S.C. §630 *et. seq.*, and NRS
4 Chapter 613 *et. seq.*

5 5. Based upon information and belief, Defendant had the ability and authority to hire
6 and terminate Plaintiff; supervise and control his employment; and determine his rate and method
7 of payment.

8 **JURISDICTION AND VENUE**

9 6. This Court has jurisdiction over Plaintiffs' claims because the acts and omissions
10 of the Defendant occurred in Clark County, Nevada and Plaintiffs' damages exceed \$15,000.00.

11 7. This Court also has jurisdiction over Plaintiffs' claims because the claims arise
12 under the laws of the State of Nevada.

13 8. The Court also has jurisdiction over Plaintiff's claims pursuant to 42 U.S.C.
14 §12117, 29 U.S.C. §626, and 42 U.S.C. §2000e-5 which state in relevant part that this action may
15 be maintained in any Federal or State court of competent jurisdiction

16 **PROCEDURAL REQUIREMENTS**

17 9. Plaintiff has satisfied all administrative and procedural requirements necessary to
18 maintain this lawsuit.

19 10. Plaintiff timely filed his charge of discrimination with the Equal Employment
20 Opportunity Commission ("EEOC") within the requisite time frame provided under 29 U.S.C.
21 §2000e-5(e), having filed a charge of discrimination on November 10, 2021. A true copy of
22 Plaintiff's Charge of Discrimination is attached hereto as Exhibit I. Such allegations of Exhibit I
23 are hereby incorporated into this Complaint.

24 11. On or about June 10, 2022, the EEOC issued Plaintiff a notice that his charge had

1 been forwarded to the U.S. Department of Justice for Action, but that any claim under the Age
2 Discrimination in Employment Act must be brought within 90 days of that notice. A copy of this
3 Notice is attached hereto as Exhibit II. This Complaint has been timely filed within 90 days of
4 Plaintiff's receipt of such Notice.

5 12. <RESERVED>

6 **FACTUAL ALLEGATIONS**

7 13. Plaintiffs repeat and realleges all the allegations contained in Paragraphs 1 through
8 12 of this Complaint as though fully set forth herein.

9 14. Plaintiff was hired by UMC on or about November 29, 2004 as a Security Officer.

10 15. Plaintiff's last position with UMC was as the Director of Public Safety.

11 16. Beginning in or about 2016, Plaintiff was subjected to sexual harassment by his
12 supervisor, Carissa Ray when Plaintiff was assigned to directly report to her.

13 17. Specifically, she would engage in inappropriate touching during work time,
14 sending inappropriate text messages of a sexual nature to Plaintiff's personal cellular phone, and
15 making sexual advances upon Plaintiff.

16 18. Plaintiff declined those sexual advances and requested that Ray cease the
17 inappropriate behavior on multiple occasions, but she continued the harassment.

18 19. Moreover, she threatened Plaintiff's job if he revealed her behavior or reported her.

19 20. In early April of 2021, Plaintiff reported the inappropriate conduct to Defendant's
20 COO, Tony Marinello.

21 21. As part of that report, Plaintiff requested that he be transferred to work directly
22 under Marinello instead of Ray because the harassment had become unbearable.

23 22. Marinello then informed Ray of Plaintiff's allegations about her harassment.

24 23. Plaintiff also reported the harassment to Human Resource Director, Kurt Houser.

1 24. Houser, who had a close friendship with Ray, declined to investigate the
2 allegations or take any action against Ray.

3 25. In mid-April of 2021, approximately two weeks after he reported the harassment,
4 Plaintiff was moved to be a direct report to Marinello instead of Ray.

5 26. Around the same time, Ray threatened Plaintiff's employment and demanded that
6 he provide security access to a temporary employee for an area which that individual was not
7 authorized for without approval from Marinello, which he did not have.

8 27. Plaintiff declined to grant her that access.

9 28. Over the next few weeks, Plaintiff noticed that Ray initiated discussions with one
10 of Plaintiff's subordinates, Larry Anderson and Defendant's EEO coordinator, Anna Caputo.

11 29. On June 2, 2021, Plaintiff was notified by Marinello that he was being suspended
12 pending an investigation regarding a complaint against him by Anderson for gender
13 discrimination and sexual harassment.

14 30. On June 10, 2021, Plaintiff was scheduled for an investigatory interview regarding
15 those allegations against him.

16 31. At that interview, Plaintiff denied all wrongdoing. No specific evidence of
17 wrongdoing was ever presented to him.

18 32. Plaintiff provided witnesses to corroborate his denial of wrongdoing. To his
19 knowledge, none of those witnesses were interviewed or contacted about the investigation.

20 33. At 9:00 am on June 14, 2021, less than 12 working hours after his interview,
21 Plaintiff received an email that the findings of the investigation supported the allegation.

22 34. Plaintiff was thus terminated from his employment.

23 35. At the time of his termination, Plaintiff was 55 years old.

24 36. Also at the time of his termination, Plaintiff suffered from diabetes and associated

1 neuropathy which Defendant was aware of.

2 37. To Plaintiff's knowledge, when he was terminated, the individual who took over
3 his duties was about 40 years old (in his late 30s or early 40s) and did not suffer from diabetes or
4 neuropathy.

5 38. That individual was not qualified to hold the official title of Director, and thus was
6 considered the "acting" director for approximately a year until he qualified for the title.

7 39. Since his termination, Plaintiff has attempted to find other work but has been
8 unsuccessful.

9 40. On multiple occasions, Plaintiff has received job interviews and been at the final
10 stage of candidacy for employment from prospective employers, but then either had offers
11 rescinded or declined after they received information about his prior employment from
12 Defendant.

13 41. Plaintiff has reason to believe that UMC has been providing false and defamatory
14 information to his prospective employers which cause them to decline Plaintiff employment.

15 **FIRST CLAIM FOR RELIEF**
16 **AGE DISCRIMINATION**
29 U.S.C. §623 *et. seq.* / NRS 613.330

17 42. Plaintiff repeats and realleges all of the allegations contained in paragraphs 1
18 through 41 of this complaint as though fully set forth herein.

19 43. At the time he was terminated from employment, Plaintiff was 55 years old.

20 44. Plaintiff was terminated from employment based on unsubstantiated allegations of
21 harassment by a subordinate.

22 45. Defendant failed to perform a proper investigation into the allegation and declined
23 to interview any of Plaintiff's witnesses which would have corroborated his position and shown
24 that he did not engage in the behavior alleged against him.

1 46. When Plaintiff made similar allegations previously, those allegations were not
2 investigated and no action was taken against his supervisor.

3 47. Defendant's reasoning for terminating Plaintiff's employment was thus pretextual.

4 48. To Plaintiff's knowledge, when he was terminated, the individual who took over his
5 duties was about 40 years old (in his late 30s or early 40s) and was not qualified for that position.

6 49. Plaintiff thus was a member of a protected category who suffered adverse
7 employment action under suspicious or pretextual reasons, and was replaced by someone outside
8 of his protected category who was less qualified than Plaintiff for that position.

9 50. Defendant has thus discriminated against Plaintiff on the basis of his age in
10 violation of the Age Discrimination in Employment Act.

11 51. As a direct and proximate result of Defendant's actions, Plaintiff has been damaged
12 in an amount in excess of \$15,000.

13 52. As a further result of Defendant's actions, Plaintiff has been required to retain the
14 services of an attorney, and, as a direct, natural, and foreseeable consequence thereof, has been
15 damaged thereby, and is entitled to reasonable attorneys' fees and costs.

16 53. Defendant is also guilty of oppression, fraud, or malice, express or implied, as well
17 as a conscious disregard for Plaintiff's rights. Therefore, Plaintiff is entitled to recover punitive
18 damages.

19 **SECOND CLAIM FOR RELIEF**
20 **DEFAMATION (PER SE)**

21 54. Plaintiff repeats and realleges all of the allegations contained in paragraphs 1
22 through 53 of this complaint as though fully set forth herein.

23 55. Following his termination from employment with UMC, Plaintiff attempted to find
24 subsequent employment.

 56. On multiple occasions, Plaintiff's prospective employers either rescinded offers of

1 employment or failed to extend offers of employment after speaking with Defendant about
2 Plaintiff's work history.

3 57. Plaintiff has reason to believe that Defendant provided false and defamatory
4 information to those prospective employers about Plaintiff's lack of fitness for the job.

5 58. Defendant knew this information to be false, or was negligent in making the
6 statement because such statements were based on unfounded allegations which were not properly
7 investigated.

8 59. This false and defamatory information caused Plaintiff damages because he has
9 been unable to find subsequent employment since his termination from UMC despite being
10 qualified for the positions.

11 60. As a direct and proximate result of Defendant's actions, Plaintiff has been damaged
12 in excess of \$15,000.00.

13 61. As a further result of Defendant's actions, Plaintiff has been forced to incur
14 attorney's fees and legal expenses.

15 62. Defendant is also guilty of oppression, fraud, or malice, express or implied, as well
16 as a conscious disregard for Plaintiff's rights. Therefore, Plaintiff is entitled to recover punitive
17 damages.

18 **THIRD CLAIM FOR RELIEF**
19 **DISABILITY DISCRIMINATION**
20 **42 U.S.C. §12111 *et. seq.* / NRS 613.330**

21 63. Plaintiff repeats and realleges all of the allegations contained in paragraphs 1 through
22 62 of this complaint as though fully set forth herein.

23 64. 42 U.S.C. §12112 and NRS 613.330 provide that it is unlawful for an employer to
24 discharge from employment a qualified individual on the basis of his disability.

65. At all times relevant, Plaintiff was an individual under the Americans with

1 Disabilities Act as Amended (“ADA”) in that he was an individual with a physical impairment that
2 substantially limited one or more major life activities (diabetes and neuropathy), had a record of
3 such impairment, and/or who was a person who was regarded and/or perceived as having such an
4 impairment or disability.

5 66. Throughout his employment, Plaintiff could and did perform the essential functions
6 of his job, with or without an accommodation,

7 67. Plaintiff was terminated from employment based on unsubstantiated allegations of
8 harassment by a subordinate.

9 68. Defendant failed to perform a proper investigation into the allegation and declined
10 to interview any of Plaintiff’s witnesses which would have corroborated his position and shown
11 that he did not engage in the behavior alleged against him.

12 69. When Plaintiff made similar allegations previously, those allegations were not
13 investigated and no action was taken against his supervisor.

14 70. Defendant’s reasoning for terminating Plaintiff’s employment was thus pretextual.

15 71. To Plaintiff’s knowledge, when he was terminated, the individual who took over his
16 duties did not suffer from diabetes or neuropathy and was not qualified for that position.

17 72. Plaintiff thus was a member of a protected category who suffered adverse
18 employment action under suspicious or pretextual reasons, and was replaced by someone outside
19 of his protected category who was less qualified than Plaintiff for that position.

20 73. Defendant has thus discriminated against Plaintiff on the basis of his disability in
21 violation of 42 U.S.C. §12111 *et. seq.* and NRS 613.330 *et. seq.*

22 74. As a direct and proximate result of Defendant’s actions, Plaintiff has been damaged
23 in an amount in excess of \$15,000.

24 75. As a further result of Defendant’s actions, Plaintiff has been required to retain the

1 services of an attorney, and, as a direct, natural, and foreseeable consequence thereof, has been
2 damaged thereby, and is entitled to reasonable attorneys' fees and costs.

3 76. Defendant is also guilty of oppression, fraud, or malice, express or implied, as well
4 as a conscious disregard for Plaintiff's rights. Therefore, Plaintiff is entitled to recover punitive
5 damages.

6 **FOURTH CLAIM FOR RELIEF**
7 **SEXUAL HARASSMENT/DISCRIMINATION**
8 **42 U.S.C. §2000e et. seq. / NRS 613.330**

9 77. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through
10 76 of this Complaint as though fully set forth herein.

11 78. As more fully set forth above, Plaintiff was subject to unwelcome, unconsented, and
12 harassing behavior of a sexual nature by his supervisor, who had authority to discipline him and
13 set the terms and conditions of his employment.

14 79. This conduct is the type that a reasonable person in Plaintiff's position would find
15 to be sufficiently severe or pervasive.

16 80. This sexually offensive conduct endured by Plaintiff was so severe and pervasive
17 that it was frequent, humiliating, and interfered with Plaintiff's ability to work.

18 81. This sexual conduct was sufficiently severe or pervasive as to alter the
19 compensation, terms, conditions and privileges of Plaintiff's employment.

20 82. Plaintiff reported this harassment to his employer – both the COO and the Human
21 Resources Director.

22 83. Defendant, through its various personnel, knew of this sexually charged hostile
23 environment and took no action to stop it.
24

84. Given the aforementioned, Defendant's conduct was so severe and pervasive as to constitute an objective abusive hostile work environment in violation of Title VII and/or NRS 613.330.

85. As a direct and proximate result of Defendant's actions, Plaintiff has been damaged in an amount in excess of \$15,000.

86. As a further result of Defendant's actions, Plaintiff has been required to retain the services of an attorney, and, as a direct, natural, and foreseeable consequence thereof, has been damaged thereby, and is entitled to reasonable attorneys' fees and costs.

87. Defendant is also guilty of oppression, fraud, or malice, express or implied, as well as a conscious disregard for Plaintiff's rights. Therefore, Plaintiff is entitled to recover punitive damages.

FIFTH CLAIM FOR RELIEF
RETALIATION

42 U.S.C. §2000e-3(a) (Title VII) / NRS 613.340

88. Plaintiff repeats and realleges all the allegations contained in Paragraphs 1 through 87 of this Complaint as though fully set forth herein.

89. Plaintiff complained about his supervisor's harassing behavior to both Defendant's COO and Human Resources Director.

90. The supervisor was close friends with both the Human Resources Director and the individual in charge of investigating allegations of harassment.

91. In response to Plaintiff's complaints, Defendant, through the individuals described in paragraph 90 and others, elicited false allegations of discrimination and harassment from another employee against Plaintiff.

92. Less than two months after he reported the harassing conduct, Plaintiff was suspended on the basis of those false allegations.

1 93. On June 10, 2021, Plaintiff was scheduled for an investigatory interview regarding
2 those allegations against him.

3 94. At that interview, Plaintiff denied all wrongdoing. No specific evidence of
4 wrongdoing was ever presented to him.

5 95. Plaintiff provided witnesses to corroborate his denial of wrongdoing. To his
6 knowledge, none of those witnesses were interviewed or contacted about the investigation.

7 96. Plaintiff was thereafter terminated from his employment because of the allegations
8 against him.

9 97. Defendant thus devised a scheme to terminate Plaintiff on false pretenses in
10 retaliation for his report of sexual harassment against his supervisor.

11 98. Defendant knew of this retaliatory action through its various personnel, and took
12 no action to stop or correct it.

13 99. As a direct and proximate result of Defendant's actions, Plaintiff has been damaged
14 in an amount in excess of \$15,000.

15 100. As a further result of Defendant's actions, Plaintiff has been required to retain the
16 services of an attorney, and, as a direct, natural, and foreseeable consequence thereof, has been
17 damaged thereby, and is entitled to reasonable attorneys' fees and costs.

18 101. Defendant is also guilty of oppression, fraud, or malice, express or implied, as
19 well as a conscious disregard for Plaintiff's rights. Therefore, Plaintiff is entitled to recover
20 punitive damages.


21
22 **WHEREFORE**, Plaintiffs pray for a judgment against Defendants as follows:

- 23 1. For general, special, and consequential damages in excess of \$15,000.00;
24 2. For pre and post judgment interest as allowed by law;

3. For attorneys' fees and costs incurred in this action; and
4. For such other additional relief as the Court deems just and proper.
- 5.

Dated this March 1, 2023

Respectfully submitted,

By: 
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this March 1, 2023, I caused to be served a true and correct copy of the foregoing **PLAINTIFF'S FIRST AMENDED COMPLAINT** on the following person(s) by electronically filing via the CM/ECF system utilized by this Court:

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